

James F. Basile (SBN 228965)
james.basile@kirkland.com
Elizabeth L. Deeley (SBN 230798)
elizabeth.deeley@kirkland.com
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, California 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

Attorneys for Defendants
FACEBOOK, INC., MARK ZUCKERBERG, DAVID A.
EBERSMAN, DAVID M. SPILLANE, MARC L.
ANDREESSEN, ERSKINE B. BOWLES, JAMES W.
BREYER, DONALD E. GRAHAM, REED HASTINGS
and PETER A. THIEL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

HARVEY LAPIN, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

FACEBOOK, INC., MARK ZUCKERBERG,
DAVID A. EBERSMAN, DAVID M. SPILLANE,
MARC L. ANDREESSEN, ERSKINE B.
BOWLES, JAMES W. BREYER, DONALD E.
GRAHAM, REED HASTINGS, PETER A. THIEL,
MORGAN STANLEY & CO. LLC, J.P. MORGAN
SECURITIES LLC, GOLDMAN, SACHS & CO.,
MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED, BARCLAYS CAPITAL INC.,
ALLEN & COMPANY LLC, CITIGROUP
GLOBAL MARKETS INC., CREDIT SUISSE
SECURITIES (USA) LLC, DEUTSCHE BANK
SECURITIES INC., RBC CAPITAL MARKETS,
LLC, BLAYLOCK ROBERT VAN LLC, BMO
CAPITAL MARKETS CORP., C.L. KING &
ASSOCIATES, INC., CABRERA CAPITAL
MARKETS, LLC, CASTLEOAK SECURITIES,
L.P., COWEN AND COMPANY, LLC., E*TRADE
SECURITIES LLC, ITAÚ BBA USA
SECURITIES, INC., LAZARD CAPITAL
MARKETS LLC, LEBENTHAL & CO., LLC,
LOOP CAPITAL MARKETS LLC, M.R. BEAL &
COMPANY, MACQUARIE CAPITAL (USA)
INC., MURIEL SIEBERT & CO., INC.,

CASE NO. 12-CV-3195 (MMC)

CLASS ACTION

**STIPULATION REGARDING
SCHEDULING AND ORDER THEREON**

DATE: August 3, 2012

TIME: 9:00 a.m.

JUDGE: The Hon. Maxine M. Chesney

CTRM: 7, 19th Floor

OPPENHEIMER & CO. INC., PACIFIC CREST
SECURITIES LLC, PIPER JAFFRAY & CO.,
RAYMOND JAMES & ASSOCIATES, INC.,
SAMUEL A. RAMIREZ & COMPANY, INC.,
STIFEL, NICOLAUS & COMPANY,
INCORPORATED, THE WILLIAMS CAPITAL
GROUP, L.P., and WILLIAM BLAIR &
COMPANY, L.L.C.,

Defendants.

WHEREAS, on June 20, 2012, certain defendants removed the following actions from the Superior Court for the State of California for the County of San Mateo to the United States District Court for the Northern District of California (the "Removed Actions"):¹

Lapin v. Facebook, Inc., et al., Case No. 12-cv-3195-MMC, San Mateo County Superior Court, No. CIV-514240;

DeMois v. Facebook, Inc., et al., Case No. 12-cv-3196-MMC, San Mateo County Superior Court, No. CIV514163;

Lazar v. Facebook, Inc., et al., Case No. 12-cv-3199-MMC, San Mateo County Superior Court, No. CIV 514065;

Shierry v. Facebook, Inc., et al., Case No. 12-cv-3200-MMC, San Mateo County Superior Court, No. CIV-514172;

Cuker v. Facebook, Inc., et al., Case No. 12-cv-3201-MMC, San Mateo County Superior Court No. CIV 514238;

Lieber v. Facebook, Inc., et al., Case No. 12-cv-3202-MMC, San Mateo County Superior Court No. CIV-514193; and

Stokes v. Facebook, Inc., et al., Case No. 12-cv-3203-MMC, San Mateo County Superior Court, No. CIV514107;

WHEREAS, prior to the removal to the United States District Court for the Northern District of California, the Removed Actions were consolidated by order of the Honorable Beth L. Freeman, Presiding Judge of the Superior Court of the State of California for the County of San Mateo and co-lead counsel for the Removed Actions were appointed by Order of the Honorable Marie S. Weiner,

¹ Two other actions that were removed, *Pilgram v. Facebook, Inc., et al.*, Case No. 12-cv-3197-MMC, San Mateo County Superior Court, No. CIV-514111 and *Alfonso v. Facebook, Inc., et al.*, Case No. 12-cv-3198-MMC, San Mateo County Superior Court, No. CIV-514171, have since been voluntarily dismissed and marked closed on this Court's docket. Accordingly, the parties are not including these actions in the stipulation.

1 Complex Civil Litigation Judge of the Superior Court of the State of California for the County of
2 San Mateo;

3 WHEREAS, on June 21, 2012 and June 22, 2012, plaintiffs filed motions to remand each of
4 the Removed Actions to the Superior Court for the State of California for the County of San Mateo;

5 WHEREAS, on June 21, 2012, motions to stay each of the Removed Actions were filed on
6 behalf of defendants;

7 WHEREAS, on June 29, 2012, the Removed Actions were deemed related to actions pending
8 before this Court and were subsequently transferred to this Court;

9 WHEREAS, pursuant to the order reassigning each of the Removed Actions to this Court, all
10 hearing dates on outstanding motions were vacated and the parties were ordered to re-notice said
11 hearings;

12 WHEREAS, the Court's ECF filing system was inoperable and the parties were unable to re-
13 notice these hearings by electronic filings on Thursday, June 28, 2012 or Friday, June 29, 2012;

14 WHEREAS, the re-notice of the motions to stay on behalf of defendants were physically
15 filed on June 29, 2012 and were accepted by the Court;

16 WHEREAS, plaintiffs' counsel, after contacting the Clerk's office when the ECF filing
17 system was inoperable and being advised that a physically refiled motion would be rejected because
18 these actions are designated for electronic filing only, and, therefore, plaintiffs physically filed their
19 re-noticed motions to remand on the next business day, Monday, July 2, 2012;

20 WHEREAS, the parties hereto agree that in the interest of judicial economy, plaintiffs'
21 motions to remand the Removed Actions and motions on behalf of defendants to stay the Removed
22 Actions should be briefed and heard on the same schedule; and

23 WHEREAS, the parties hereto wish to have the motions to stay and the motions to remand
24 the Removed Actions heard on the same date, that date being August 10, 2012.

25 NOW THEREFORE THE PARTIES STIPULATE AND AGREE that:

26 All briefing in response to either the motions to remand the Removed Actions or the Motions
27 to Stay the Removed Actions should be served on the parties and filed with the Court no later than
28 July 10, 2012; plaintiffs shall file a single brief and defendants shall collectively file a single brief;

1 All reply briefs in support of the motions to remand the Removed Actions or the motions to
2 stay the Removed Actions should be served on the parties and filed with the Court no later than July
3 18, 2012; plaintiffs shall file a single brief and defendants shall collectively file a single brief; and

4 In each of the Removed Actions, the parties will file amended notices of the motions to
5 remand and amended notices of the motions to stay setting August 10, 2012 at 9:00 A.M. as the
6 hearing date for said motions.

7
8 Dated July 3, 2012

KIRKLAND & ELLIS LLP

9
10 /s/ James F. Basile

JAMES F. BASILE

11 James F. Basile
12 Elizabeth L. Deeley
13 555 California Street, 27th Floor
14 San Francisco, CA 94104
Telephone: (415) 439-1471
Facsimile: (415) 439-1371

15 **KIRKLAND & ELLIS LLP**

16 Andrew B. Clubok
17 Brant W. Bishop
18 601 Lexington Ave.
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

19 and

20 **WILLKIE FARR & GALLAGHER LLP**

21 Richard D. Bernstein
22 Tariq Mundiya
23 Todd G. Cosenza
24 787 Seventh Avenue
New York, N.Y. 10019-6099, U.S.A.
Telephone: (212) 728-8000
Facsimile: (212) 728-8111

25
26 *Attorneys for Defendants Facebook, Inc., Mark*
27 *Zuckerberg, David A. Ebersman, David M.*
28 *Spillane, Marc L. Andreessen, Erskine B.*
Bowles, James W. Breyer, Donald E. Graham,
Reed Hastings, Peter A. Thiel

1 Dated July 3, 2012

BARRACK, RODOS & BACINE

2
3 /s/ Samuel M. Ward

4 SAMUEL M. WARD

5 STEPHEN R. BASSER
6 SAMUEL M. WARD
7 One America Plaza
8 600 West Broadway, Suite 900
9 San Diego, CA 92101
10 Phone: (619) 230-0800
11 Fax: (619) 230-1874
12 Email: sbasser@barrack.com
13 sward@barrack.com

14 and

15 **BARRACK RODOS & BACINE**

16 DANIEL E. BACINE
17 MARK R. ROSEN
18 BETH T. SELTZER
19 3300 Two Commerce Square
20 2001 Market Street
21 Philadelphia, PA 19103
22 Phone: (215) 963-0600
23 Fax: (215) 963-0838
24 Email: dbacine@barrack.com
25 mrosen@barrack.com
26 bseltzer@barrack.com

27 **GLANCY BINKOW & GOLDBERG LLP**

28 Lionel Z. Glancy
Michael Goldberg
Robert V. Prongay
Casey E. Sadler
1925 Century Park East, Suite 2100
Los Angeles, CA 90067
Tel: (310) 201-9150
Fax: (310) 201-9160
Email: info@glancylaw.com

*Co- Lead Counsel in the San Mateo County Supreme
Court Actions and Counsel for Plaintiffs Darryl Lazar,
Vernon R. DeMois, Jr., Edward J. Shierry, Karen
Cuker, Brian Gralnick and Harvey Lapin*

STRAUSS TROY CO., LPA

Richard S. Wayne
Joseph J. Braun
The Federal Reserve Building
150 East Fourth Street
Cincinnati, Ohio 45202-4018
Tel: (513) 621-2120
Fax: (513) 629-9426

Counsel for Plaintiff Vernon R. DeMois, Jr.,

AHDOOT & WOLFSON, P.C.

Robert Ahdoot
Tina Wolfson
Theodore Maya
Bradley King
10850 Wilshire Boulevard, Suite 370
Los Angeles, CA 90024
Tel: 310-474-9111
Fax: 310-474-8585

Counsel for Plaintiff Jennifer Stokes

INITIATIVE LEGAL GROUP APC

Jordan L. Lurie
Raul Perez
Andrew Sokolowski
Sue Kim
1800 Century Park East, 2nd Floor
Los Angeles, California 90067
Telephone: (310) 556 - 5637
Facsimile: (310) 861 -9051

and

Jack Zwick
100 Church Street, Suite 850
New York, N.Y. 10007
Telephone: (212) 385 - 1900
Facsimile: (212) 385 - 1911

Counsel for Plaintiff Michael Lieber

1 Dated July 3, 2012

DAVIS POLK & WARDWELL LLP

2 */s/ Neal A. Potischman*

3 NEAL A. POTISCHMAN

4 Neal A. Potischman
5 Samantha H. Knox
6 1600 El Camino Real
7 Menlo Park, CA 94025
8 Telephone: (650) 752-2000
9 Facsimile: (650) 752-2111

DAVIS POLK & WARDWELL LLP

10 James P. Rouhandeh
11 Charles S. Duggan
12 450 Lexington Avenue
13 New York, New York 10017
14 Telephone: (212) 450-4000
15 Facsimile: (212) 701-5800

16 *Attorneys for Defendants Morgan Stanley &*
17 *Co. LLC, J.P. Morgan Securities LLC, and Goldman,*
18 *Sachs & Co., for themselves and on behalf of the*
19 *underwriter defendants*

20 **PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.**

21 Dated: July 6, 2012

22 
23 HONORABLE MAXINE M. CHESNEY
24 UNITED STATES DISTRICT JUDGE
25
26
27
28